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EXAMINER

AUSTIN, SHELTON W

ART UNIT

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2623

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DELIVERY MODE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/031,789

Applicant(s)

DAVIDSSON ET AL.

Examiner

Shelton Austin

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18, 24-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 24-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Although a new ground of rejection has been used to address additional limitations that have been added to claims 1-18 and 24-36, a response is considered necessary for several of applicant's arguments since reference Liles et al. (US 5,880,731), will continue to be used to meet several claimed limitations.

In response to applicant's argument on page 11 of the 5/2/2007 Remarks, the limitation of "displaying, simultaneously with the text, an avatar image superimposed on top of the background" is met by Bruck, Billmaier and Liles as described below:

Bruck teaches a template, or background, that matches the theme of the broadcast video signal. The template includes a video region, a chat region and a logo region (page 19, lines 1-8). The applicant argues that Bruck and Liles at best teach the avatar would be displayed in a region separate from the background, however the examiner respectfully disagrees because Liles teaches displaying avatar images (Fig. 13—254), that represent a user in a chat room, superimposed on top of the background (Fig. 13—250). Therefore, the combination of Bruck, Billmaier and Liles meet the limitation, "displaying, simultaneously with the text, an avatar image superimposed on top of the background."

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5, 15, 18, 24, 26, 27, 29, 30, 31 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck et al. (WO 00/64150) in view of Billmaier et al. (US 2003/0046695).

Regarding claims 1, 15, 18, 24, 29, 31, 33 and 35, Bruck et al. ("Bruck") teaches a method, and corresponding apparatus, comprising:

receiving a broadcast video signal at a first multimedia apparatus (page 3, lines 22-23);

receiving text communications from a second multimedia apparatus (page 4, lines 11-12);

displaying television programming of said broadcast video signal in a first display area of a display (Fig. 6—118);

determining a theme of the television programming (page 4, lines 7-9);

selecting a background image based on said theme (page 19, lines 1-8—user interface template, "background image", matches the "theme" of the broadcast video signal); and

displaying said background image as a background in a second display area of said display (page 19, lines 1-8—second display area is the entire screen template),

said displayed background image having a plurality of displayed graphical elements (Fig. 7—NBC logo 120 and “Third Rock” logo).

Bruck teaches superimposing text of said text communications on top of said background in said second display area, but fails to specifically teach displaying the text on top of at least one of the displayed graphical elements of the background.

In analogous art, Billmaier et al. (“Billmaier”) teaches superimposing text on top of at least one of the displayed graphical elements. Billmaier discloses that a text description may be overlaid or superimposed over a graphical representation (Fig. 6—paragraphs 37 and 60).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck by superimposing text of said text communications on top of at least one of the displayed graphical elements of said background in said second display area, as taught by Billmaier, in order to simultaneously show the description and the graphical element to aid the user in identifying and knowing the status of the corresponding options (Billmaier: paragraph 57-60).

Regarding claims 4, 26, 30 and 34, Bruck and Billmaier meet all the claim limitations. In particular, Bruck teaches the selecting includes selecting said background image from an image database residing in a memory device associated with said first multimedia apparatus (page 18, lines 15-21).

Regarding claims 5 and 27, Bruck and Billmaier meet all the claim limitations. In particular, Bruck teaches the selecting includes selecting said background image from an image database residing on the Internet (page 18, 15-17).

3. Claims 2, 7-9, 12-17, 25, 32 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck in view of Billmaier, and further in view of Liles et al. (US 5,880,731).

Regarding claims 2, 16, 25, 32 and 36, Bruck and Billmaier fail to teach selecting an avatar image that is representative of a television viewer of the second multimedia apparatus; and displaying, simultaneously with said text, said avatar image superimposed on top of said background in said second display area.

In analogous art, Liles et al. ("Liles") teaches selecting an avatar image that is representative of a television viewer of the second multimedia apparatus; and displaying, simultaneously with said text, said avatar image superimposed on top of said background in said second display area. The system provides the user with avatars that can be selected to represent the individual in a chat session for a particular subject (col. 6, lines 34-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by selecting an avatar image that is representative of a television viewer of the second multimedia apparatus, and displaying, simultaneously with said text, said avatar image superimposed on top of said

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background in said second display area, as taught by Liles, in order to allow the user to select and customize an avatar that relates to the subject matter of the chat room (Liles: col. 6, lines 26-34).

Regarding claim 7, Liles additionally teaches displaying said text to be superimposed on top of said background in said second display area close to said avatar image. A user when submitting a text to the chat room can implement a text balloon. The text balloon is shown next to the avatar to indicate the text is a verbal communication or a mental thought.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by displaying said text to be superimposed on top of said background in said second display area close to said avatar image, as additionally taught by Liles, in order to have the text in a text balloon, therefore displaying the illusion of verbal communication by the user's avatar so that other participants in the chat session will understand the nature of the text received from the user (Liles: col. 10, lines 4-28).

Regarding claim 8, Liles additionally teaches said text remains displayed superimposed on top of said background close to said avatar image until another text communications is received from said television viewer. The system allows a user to initiate an animation object to produce a gesture accompanied by a text message, the

new gesture and text message interrupting any previously initiated animation, which also includes gesture and a text message (col. 10, lines 29-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by having the text remain displayed superimposed on top of said background close to said avatar image until another text communications is received from said television viewer, as additionally taught by Liles, in order to clearly convey the user's current emotional state (Liles: col. 10, lines 29-32).

Regarding claims 9 and 17, Liles additionally teaches receiving at the first multimedia apparatus an indication of an action input to the second multimedia apparatus; in response to the indication, selecting an action image corresponding to said action input; and displaying said action image superimposed on top of said background in said second display area. The system uses avatars to convey gestures in connection with a text message. The gestures can be selected by the user for display to the other users in the chat room (Figs. 4A-4C; col. 7, lines 18-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by receiving at the first multimedia apparatus an indication of an action input to the second multimedia apparatus; in response to the indication, selecting an action image corresponding to said action input; and displaying said action image superimposed on top of said background in said second display area, as additionally taught by Liles, in order to



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convey different emotions that the user wishes to present to other users in the chat room (Liles: col. 7, lines 24-42; 29-32).

Regarding claim 12, Liles additionally teaches creating a record associated with said first multimedia apparatus, said record comprising a set of preferred television viewers; and superimposing representations of text communications associated with at least one of the preferred television viewers included in said record, displaying at least one avatar image associated with said at least one of the preferred television viewers included in said record, superimposing text communications associated with at least one other television viewer not included in said record, and displaying at least one avatar image associated with said at least one other television viewer not included in said record. A user defines an exception list that includes the names of specific individuals with whom the user wants to interact with in the current chat session. Users that are not on the exception list, but are within the user's predefined radius, will also be displayed to the user (col. 11, lines 36-46; col. 12, lines 1-48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by creating a record associated with said first multimedia apparatus, said record comprising a set of preferred television viewers; and superimposing representations of text communications associated with at least one of the preferred television viewers included in said record, displaying at least one avatar image associated with said at least one of the preferred television viewers included in said record, superimposing text communications

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associated with at least one other television viewer not included in said record, and displaying at least one avatar image associated with said at least one other television viewer not included in said record, as additionally taught by Liles, in order to enable a user to selectively determine who will be, and who will not be, visible to the user in the chat session (Liles: col. 11, lines 36-38).

Regarding claim 13, Bruck, Billmaier and Liles teach that the chat room is selected based on an identifying characteristic of the broadcast video signal (Bruck: page 19, lines 1-2), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made that the user not included in the record would be watching the television programming determined to have the same television programming identity as the television programming included in the broadcast video signal.

Regarding claim 14, Bruck, Billmaier and Liles teach receiving user input at said first multimedia apparatus. When a user changes to a channel and selects the chat option, a different template is provided based on the identifying characteristics of the particular channel, therefore allowing the user to interact with other viewers of the video signal who are also participating in the chat option (Bruck: abstract; page 18, lines 15-21; page 19, lines 1-2). Liles additionally teaches in response to the user input, replacing the avatar image with a different avatar image. The system includes a number of different avatars that are based upon the subject matter of the chat session.

The avatars are available to the user for representation in the chat room. Therefore, if the subject matter of the chat room changes, the avatars available to the user will change as well (col. 6, lines 23-26 & 35-37).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by in response to the user input, replacing the avatar image with a different avatar image, as additionally taught by Liles, because appropriate avatars are provided based on the subject matter of the chat session (Liles: col. 6, lines 23-24).

4. Claims 3, 6 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck in view of Billmaier, and further in view of Zenith (US 7,036,083).

Regarding claim 3, Bruck and Billmaier fail to teach the selection of the background image and displaying said background image are both performed at least two times during the broadcast of said television programming.

In analogous art, Zenith teaches the selection a background image and the displaying the background image are both performed at least two times during the broadcast of said television programming. The system changes chat rooms each time the television channel is changed, where the new chat room is related to the newly selected television channel (col. 7, lines 3-21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by allowing the selection of the background image and displaying said background image are both performed at

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least two times during the broadcast of said television programming, as taught by Zenith, in order to change the background chat room template each time the channel is changed so that the chat room will correspond to the channel being viewed by the users (Zenith: col. 7, lines 3-6).

Regarding claims 6 and 28, Bruck and Billmaier teach an image database that can reside in a memory device, e.g. "downloaded to the client device", or on the Internet and wherein selecting includes selecting said background image from said image database (Bruck: page 18, lines 13-21). Bruck and Billmaier, however, fail to specifically teach downloading an image database via a multiplexed broadcast stream containing said broadcast video signal.

In analogous art, Zenith teaches a broadcast signal that can include digital data. The broadcaster broadcasts a trigger, which contains a URL, along with the television video (col. 2, lines 47-57; col. 4, lines 48-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Billmaier by downloading an image database via a multiplexed broadcast stream containing said broadcast video signal, wherein selecting includes selecting said background image from said image database, as taught by Zenith, in order allow the broadcaster to use triggers to have their viewers' receiver units retrieve information from the Internet and display that information in concert with their programming (Zenith: col. 3, lines 4-7).

5. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck in view of Billmaier, further in view of Liles and further in view of Gordon et al. (US 6,208,335).

Regarding claim 10, Bruck, Billmaier and Liles teach receiving an indication of an action input to the second multimedia apparatus; in response to the indication, selecting an action image corresponding to said action input (Liles: Figs. 4A-4C; col. 7, lines 18-24). Bruck, Billmaier and Liles, however, fail to teach displaying said action image superimposed on top of said television programming in said first display area.

In analogous art, Gordon et al. ("Gordon") teaches displaying an action image superimposed on top of said television programming. The system includes a graphics layer that comprises OSD (on-screen display) overlay(s) including graphical objects. The overlay(s) are displayed over the video layer.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bruck, Billmaier and Liles by displaying said action image superimposed on top of said television programming in said first display area, as taught by Gordon, in order to facilitate certain interactive functions for the user (Gordon: col. 3, lines 3-11).

Regarding claim 11, Gordon additionally teaches displaying said action image includes transparently superimposing said action image over said television programming (col. 3, lines 26-34; col. 7, lines 32-36—the graphics can be transparent).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bruck, Billmaier and Liles by displaying said action image includes transparently superimposing said action image over said television programming, as additionally taught by Gordon, in order to allow much of the underlying video to be seen while positioning certain graphics upon the video (Gordon: col. 3, lines 29-32).

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelton Austin whose telephone number is (571) 272-9385. The examiner can normally be reached on Monday through Thursday from 8:00-5:30. The examiner can also be reached on Fridays from 9:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant, whose telephone number is (571) 272-7294, can be reached on Monday through Friday from 7:30-5:00. The supervisor can also be reached on alternate Fridays from 9:00-4:00. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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